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**From:** Kwok, Rose [Kwok.Rose@epa.gov]  
**Sent:** 5/7/2020 11:29:26 PM  
**To:** Wade, Alexis [Wade.Alexis@epa.gov]  
**Subject:** Questions for 404(g) ESA-related docket  
**Attachments:** Endangered Species Act Of 1973.pdf; USCODE-2018-title16-chap35.pdf; MOAUSFWS\_ADA 01.02.20.pdf

Alexis,

I wanted to follow up with you on this to see if we need to put the 2018 addendum to the 1994 MOA (attached) in the 404(g) ESA docket. See Kathy's reasoning below **Ex. 5 Deliberative Process (DP)**

Also, I had a question about which version of the ESA we should use for posting to the docket. The version that Ruth sent me (attached), I was able to find last week on the House website but I can't find it anymore. This version mentions that it is: As Amended Through P.L. 113–287, Enacted December 19, 2014.

I also found this version of the ESA on the Govinfo website from the 2018 U.S. Code:  
<https://www.govinfo.gov/content/pkg/USCODE-2018-title16/pdf/USCODE-2018-title16-chap35.pdf>. It does mention the 2014 amendment, but also one in 2018 (Pub. L. 115–334, title II, §2407, Dec. 20, 2018, 132 Stat. 4573). And then, the other versions of the ESA that I have found online do not mention the 2014 or 2018 amendments, but it may be that they are out of date. For example, the version on the USFWS website (see <https://www.fws.gov/endangered/esa-library/pdf/ESAall.pdf>) has the last amendment as P.L. 108-136, November 24, 2003. Similarly, NOAA has the same version on their website: <https://www.fisheries.noaa.gov/national/endangered-species-conservation/endangered-species-act#download-the-full-pdf-version>.

Which version should I add to the docket – the one from the 2018 U.S. Code (attached) or the one that says it was amended through 2014?

Thanks for your help. We're trying to get things added to the docket in preparation for Dave's upcoming signature.

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**From:** Hurlid, Kathy <Hurlid.Kathy@epa.gov>  
**Sent:** Friday, May 01, 2020 2:42 PM  
**To:** Kwok, Rose <Kwok.Rose@epa.gov>; Chemerys, Ruth <Chemerys.Ruth@epa.gov>  
**Cc:** Wade, Alexis <Wade.Alexis@epa.gov>  
**Subject:** RE: Additional documents to check for 508 compliance if possible

Alexis,

# Ex. 5 Attorney Client (AC)

- Kathy

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**From:** Kwok, Rose <Kwok.Rose@epa.gov>  
**Sent:** Friday, May 01, 2020 2:33 PM  
**To:** Chemerys, Ruth <Chemerys.Ruth@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>

**Cc:** Wade, Alexis <Wade.Alexis@epa.gov>

**Subject:** RE: Additional documents to check for 508 compliance if possible

Copying Alexis to confirm – Alexis, does this need to go into the docket? Thanks!

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**From:** Chemerys, Ruth <Chemerys.Ruth@epa.gov>

**Sent:** Friday, May 01, 2020 2:31 PM

**To:** Hurlid, Kathy <Hurlid.Kathy@epa.gov>

**Cc:** Kwok, Rose <Kwok.Rose@epa.gov>

**Subject:** Re: Additional documents to check for 508 compliance if possible

Kathy- it was my understanding fro Alexis that we should put in the docket.  
Ruth

Sent from my iPhone

On May 1, 2020, at 2:29 PM, Hurlid, Kathy <Hurlid.Kathy@epa.gov> wrote:

## Ex. 5 Deliberative Process (DP)

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**From:** Chemerys, Ruth <Chemerys.Ruth@epa.gov>

**Sent:** Friday, May 01, 2020 2:26 PM

**To:** Kwok, Rose <Kwok.Rose@epa.gov>

**Cc:** Hurlid, Kathy <Hurlid.Kathy@epa.gov>

**Subject:** Re: Additional documents to check for 508 compliance if possible

Hi Rose-

Not sure why it was left as ~~strikeout~~, but it should be NJDEP. I'm not sure if we're supposed to leave the typo there or not. i'm copying Kathy to see what she thinks.

Ruth

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**From:** Kwok, Rose <Kwok.Rose@epa.gov>hi

**Sent:** Friday, May 1, 2020 1:46 PM

**To:** Chemerys, Ruth <Chemerys.Ruth@epa.gov>

**Subject:** RE: Additional documents to check for 508 compliance if possible

Hi Ruth,

In the MOA document, do you know why the E in NJDEPE is in “strike out text” on pages 6, etc.? Is it a typo in the MOA (assume that it is just NJDEP)? Just wanted to make sure that it should be that way. See an example below>

<image001.png>

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**From:** Chemerys, Ruth <Chemerys.Ruth@epa.gov>  
**Sent:** Friday, May 01, 2020 10:24 AM  
**To:** Kwok, Rose <Kwok.Rose@epa.gov>  
**Subject:** Additional documents to check for 508 compliance if possible

Hi Rose-

Theses are documents that, except for one, Stephanie had worked on to make 508 compliant. From what I can tell from Kathy's files, we don't have word versions of these, just pdfs.

First, do you know how to verify to see if they are 508 compliant? Except the homebuilders case, they are marked ADA 1.02.20. I think Stephanie said that one or two still had some flags in them, as noted below. We received some as pdfs, and so don't have a word version. if we can't fix, no worries.

Stephanie had said "They were as 508 compliant as my adobe would allow me. There were still some things that might get flagged. For example, something like the ECOS Letter, I would tag an annotation m(via Adobe's directions) save the file but when I reopened it that tagged annotation would get flagged again in the ADA Check"

Second, is there a way to make the Homebuilders case 508 compliant? Looks like that we downloaded from Westlaw.

If not, again, no worries.

i'd say that first, see what you can do with the documents i sent in my previous email, and then look at these (most but not all are in the docket already)

I don't know how long it will be before the FRN is signed and published, but probably I'll need to get the docket ready to go early next week.

Thanks again!

Ruth

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**From:** Hurlid, Kathy <Hurlid.Kathy@epa.gov>  
**Sent:** Wednesday, April 29, 2020 11:22 AM  
**To:** Chemerys, Ruth <Chemerys.Ruth@epa.gov>  
**Subject:** FW: FRN Documents

Ruth, here is an email discussing what we thought should be in the docket.

I have sent you an email with a link to the folder on my one drive. But here it is. All these attachments are in that file: **Ex. 6 Personal Privacy (PP)**

**Ex. 6 Personal Privacy (PP)**

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**From:** Kelly, Stephanie <kelly.stephanie@epa.gov>  
**Sent:** Thursday, January 02, 2020 4:06 PM  
**To:** Hurlid, Kathy <Hurlid.Kathy@epa.gov>  
**Subject:** FRN Documents

Hey Kathy,

All documents have been checked for ADA compliance. A few of the issues within the documents could not be completely resolved due to the solution being grayed out aka not able to be selected to fix the issue. As you know I couldn't really fix the 2014 FRN because of the document protections. I fixed what it would allow me to fix (anything manual) and I am still looking for the link to the FRN. As for the other documents, perhaps your Adobe will behave better than mine?

On a similar subject you had asked me if we ever got clarification on what documents need to accompany the FRN. It was asked but to be best of my knowledge we never received an answer. Anyway, on December 17<sup>th</sup>, you emailed Mike and Alexis asking them if the below was the appropriate list of documents to include for the FRN.

(taken from your email on December 17<sup>th</sup>, 2019

## Ex. 5 Deliberative Process (DP)

I was also copied on that email. I did not see a response from either Mike or Alexis. Would you like me to follow up with them?

I don't mind. Let me know if there is anything further you would like me to do to assist in the FRN.

Sincerely,

Stephanie

**Stephanie Kelly** | Physical Scientist | Program Development and Jurisdiction Branch  
U.S. Environmental Protection Agency, Office of Water | 202-566-0890